

## § 27.9

days from the date of the alleged discrimination, unless the time for filing is extended by the Department Compliance Officer or his designee.

(d) *Investigations.* The Department Compliance Officer or his designee will make a prompt investigation whenever a compliance review report, complaint, or any other information indicates a possible failure to comply with the rules, regulations, and orders implementing section 403 of Public Law 93-153. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, contractor, or subcontractor, the circumstances under which the possible noncompliance occurred and other factors relevant to a determination as to whether the recipient, contractor or subcontractor has failed to comply with section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(e) *Resolution of matters.* (1) If an investigation pursuant to paragraph (a), (b), (c), or (d) of this section indicates a failure to comply with the rules, regulations, and orders implementing section 403 of Public Law 93-153, the Department Compliance Officer or his designee will so inform the recipient, contractor or subcontractor and the matter will be resolved by informal means whenever possible. Before the recipient, contractor or subcontractor can be found to be in compliance, he must make specific commitments in writing, to correct all deficiencies. The commitments must include the precise actions to be taken and dates for completion. The time periods allotted shall be no longer than the minimum periods necessary to effect such changes. Upon approval of the Department Compliance Officer, the recipient, contractor or subcontractor, may be considered in compliance, on condition that the commitments are faithfully kept. The recipient, contractor or subcontractor shall be notified that making such commitments does not preclude future determinations of noncompliance when the commitments are not being met or when there is a determination by the Department Compliance Officer that the full facts were not known at the time commitments were accepted, and

that commitments are not sufficient to correct deficiencies.

(2) If an investigation does not warrant action pursuant to paragraph (e)(1) of this section, the Department Compliance Officer shall so inform the recipient, contractor or subcontractor, and the complainant, if any, in writing.

(f) *Intimidatory or retaliatory acts prohibited.* No recipient, contractor or subcontractor shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by section 403 of Public Law 93-153 and implementing rules, regulations, and orders, or because he has made a complaint, testified, assisted, benefited from, or participated in any manner in an investigation, compliance review, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

(g) *Approval of action by Authorized Officer.* During the period of construction of the Trans-Alaska Pipeline, and until such time as this paragraph (g) is rescinded by the Secretary, the Department Compliance Officer shall coordinate all actions taken pursuant to this part with the Authorized Officer and shall secure the approval of the Authorized Officer prior to the taking of any final act hereunder.

## § 27.9 Procedures for effecting compliance.

(a) *General.* If there appears to be a failure or refusal of any recipient, contractor, or subcontractor to observe or comply substantially with section 403 of Public Law 93-153, or implementing rules, regulations, and orders, compliance may be effected through the use of conciliation conferences, informal hearings, and procedures to cause termination or suspension of or refusal to grant or to continue the permit, or other Federal authorization to which this part applies, or of the contracts to which this part applies, or by any other means authorized by law. Such other means may include, but are not limited to:

## Office of the Secretary, Interior

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(1) A reference to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States or any assurance or other contractual undertaking, and

(2) Any applicable proceeding under State or local law.

(b) *Noncompliance with § 27.4.* In the event that a recipient fails or refuses to furnish an assurance required under § 27.4, or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that section the failure or refusal may, at the option of the Secretary, be grounds for authorizing proceedings to cause refusal of the Federal authorization in accordance with the procedures of paragraph (c) of this section. The Department of the Interior shall not be required to provide the authorization in such a case during the pendency of the administrative proceedings under such paragraph.

(c) *Termination of or refusal to grant or to continue the Federal authorization—*(1) *General.* In those instances where a recipient fails or refuses to observe or comply substantially with section 403 of Public Law 93-153 or implementing rules, regulations, and orders, noncompliance at the option of the Secretary, may be grounds for termination, suspension, refusal to grant or continue the Federal authorization.

(i) *Recommendation to proceed.* The Department Compliance Officer may request that the Secretary commence procedures to suspend, terminate, or refuse to grant or continue the Federal authorization or to cause such suspension, termination, or refusal to grant. He shall indicate the specific grounds for alleging noncompliance with section 403 and implementing rules, regulations, and orders, the actions which would create compliance, and the time necessary to achieve compliance.

(ii) *Commencement of proceedings.* Before the Secretary authorizes the commencement of an administrative proceeding for termination, suspension, or refusal to grant any Federal authorization to which this part applies, the Secretary or his designee shall give the recipient notice in writing of the alleged ground or grounds for termination or formal suspension, or refusal

to grant, with sufficient particularity to enable the recipient to comply with section 403 of Public Law 93-153 and implementing rules, regulations and orders. The recipient shall have sixty (60) days from the date of delivery of the notice within which to comply. If compliance cannot be achieved in sixty (60) days, the recipient shall be entitled to additional time if he demonstrates that compliance is not possible within the sixty (60) day period and that the necessary curative actions were undertaken promptly and have been diligently prosecuted toward completion; *Provided further* that the aforesaid additional time shall not exceed ninety (90) days from the last day of the said sixty (60) day period, without the prior written consent of the Secretary or his designee which shall specify the last day upon which the curative action must be completed to the satisfaction of the Secretary or his designee.

(iii) *Opportunity for a hearing.* No order suspending, terminating or refusing to grant or continue any Federal authorization to which this part applies shall become effective until there has been an express finding on the record, after opportunity for a formal hearing, of a failure by the applicant or recipient to comply substantially with section 403 of Public Law 93-153 or implementing rules, regulations, and orders and the action has been approved by the Secretary pursuant to § 27.11(e).

(2) [Reserved]

(d) *Other means authorized by law.* No action to effect compliance by any other means authorized by law shall be taken until (1) the action has been approved by the Secretary, (2) the recipient or other person has been notified of its failure to comply and of the action to be taken to effect compliance, and (3) the expiration of at least 10 days from the mailing of such notice to the recipient or other person. During this period of at least 10 days additional efforts shall be made to persuade the recipient or other person to comply and to take such corrective action as may be appropriate.

### § 27.10 Hearings.

(a) *Informal hearings—*(1) *Purpose.* The Department Compliance Officer may convene such informal hearings as may